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OCCUPATIONAL CODE: REAL ESTATE LICENSURE REVISIONS

House Bill 5106 as enrolled
Public Act 196 of 2003
Sponsor: Rep. Randy Richardville

House Committee: Regulatory Reform
Senate Committee: Economic
Development, Small Business &
Regulatory Reform

Second Analysis (1-9-04)

THE APPARENT PROBLEM:

Public Act 611 of 2002 (Senate Bill 1438) amended the Occupational Code's provisions dealing with real estate brokers and salespersons in several ways. It required the three-year licensure of brokers and salespersons (rather than annual licensure); required licensees to complete 18 hours of continuing education over the three-year license cycle (rather than six hours per year); required licensees to complete a minimum number of the 18 hours each calendar year; and allowed for shorter continuing education courses. Accompanying legislation (Public Act 623; Senate Bill 1437) doubled license fees for real estate brokers and salespersons and dedicated a portion of the fees to a newly created Real Estate Enforcement Fund to pay for enforcement activities against unlicensed persons.

However, some people felt that several provisions amended by Public Act 611 remained confusing. In addition, some believed that limited liability companies should be allowed to act as real estate brokers. Legislation has been offered to address these concerns.

THE CONTENT OF THE BILL:

Public Act 611 of 2002, which amended the Occupational Code, requires the Department of Consumer and Industry Services (DCIS), beginning November 1, 2003, to issue a license for a real estate broker or salesperson for a three-year term. The act also revised continuing education requirements for licensees.

In general, House Bill 5106 would amend some of the same provisions of the Occupational Code as Public Act 611 to make several technical changes and

clarifications. The following appear to be the significant amendments.

- The bill would also allow a limited liability company to be an applicant for a real estate broker's license.
- The bill would make several changes in the use of terms. For example, it would use "relicense" instead of "reinstate" in several places and use "renew" instead of "relicense" in others.
- Currently, any education approved by DCIS and received by a licensee for further "professional designation" must be counted toward the total continuing education credits required for the three-year license cycle. The bill would clarify that the education must also be successfully completed; then, if approved by the department as continuing education, it could be counted toward the continuing education credits required for the three-year licensing cycle (or they could be counted toward license education credits). Currently, the course credits used to meet the code's continuing education requirements cannot be applied towards the real estate broker's license education requirements, and vice versa. The bill would specify that the department would have to apportion the approved course credits eligible for education requirements for licensure and continuing education requirements to meet either requirement upon the licensee's request.
- The bill also would add a definition of the term "professional designation" (as used in the paragraph above). The term would be defined to mean a certification from a real estate professional association demonstrating attainment of proven skills or education in a real estate occupational area, and

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may include the right to use a title or letters after the licensee's name that represent the designation bestowed by the certifying entity.

- The bill would specify that if a license had lapsed for less than three years, the department could relicense the licensee without examination upon proof that the licensee had completed not less than six clock hours of continuing education for each year that the license was lapsed. The continuing education courses would have to be on topics described in the code.

- A broker whose license had lapsed for three or more continuous years could be relicensed upon proof of successful completion of one of the following: six clock hours of continuing education for each year the license was lapsed on topics described in the code, 90 (increased from 40) clock hours of instruction described in the code, or passing the broker licensure examination. (Additions proposed by the bill denoted by underlining.)

MCL 339.2501 et al.

BACKGROUND INFORMATION:

For a full description of the changes made to the Occupational Code by Public Act 611 of 2002, see the analysis of Senate Bills 1437 and 1438 dated 1-29-03 by the Senate Fiscal Agency.

FISCAL IMPLICATIONS:

The House Fiscal Agency cites projections from the Department of Consumer and Industry Services that an additional position could be necessary to handle the processing changes in the bill. The salary and fringe benefits associated with the position would amount to about \$60,000. Other fixed costs (e.g., computer, phone, office space, and furniture) are estimated at about \$7,500 the first year. (HFA committee analysis dated 10-6-03)

ARGUMENTS:

For:

The bill is essentially a "cleanup" bill to make technical corrections to a significant revision to the Occupational Code's provisions regarding the licensure and continuing education of real estate professionals enacted in 2002.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.